

PATTERSON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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WAYNE W. WILLETZ, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

JPMORGAN CHASE & CO.; J.P. MORGAN
CLEARING CORP.; J.P. MORGAN
SECURITIES INC., HSBC HOLDINGS PLC,
HSBC SECURITIES (USA) INC., and HSBC
BANK USA, NATIONAL ASSOCIATION,

Defendants.

Case No. 1:10-cv-08387

Hon. Robert P. Patterson

STIPULATION AND [PROPOSED] ORDER

Plaintiff Wayne W. Willetz and defendants JPMorgan Chase & Co., J.P. Morgan Clearing Corp., J.P. Morgan Securities Inc. (collectively, "JPMorgan"), HSBC Holdings plc, HSBC Securities (USA) Inc., and HSBC Bank USA, National Association (collectively, "HSBC") (together with JPMorgan, "Stipulating Defendants"), by and through their respective undersigned counsel, subject to this Court's approval, agree and stipulate as follows concerning Stipulating Defendants' time to answer, move to dismiss or otherwise respond to the complaint in the above-captioned proceeding (the "Complaint"):

RECITALS

WHEREAS, on November 5, 2010, Plaintiff commenced the above-captioned proceeding in this District;

WHEREAS, other cases alleging similar claims under the Commodity Exchange Act, 7 U.S.C. § 1, *et seq.*, Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1, *et seq.*, and

other laws have been filed in United States District Court for the Southern District of New York and in the United States District Court for the Eastern District of New York against Stipulating Defendants (collectively, with the above-captioned action, the "Actions");

WHEREAS, the Plaintiff in the Action styled *DePaoli v. JPMorgan Chase & Co., et al.*, 1:10-cv-05054 (E.D.N.Y.), filed a Motion for Transfer and Consolidation of Related Antitrust Actions Pursuant to 28 U.S.C. § 1407 ("DePaoli Motion");

WHEREAS, the Plaintiff in the Action styled *Nalven v. JP Morgan Chase & Co., et al.*, 1:10-cv-08284 (S.D.N.Y.), filed a Motion for Transfer and Consolidation of Related Antitrust Actions Pursuant to 28 U.S.C. § 1407 ("Nalven Motion");

WHEREAS, the Judicial Panel on Multidistrict Litigation ("JPML") has assigned MDL No. 2213 and has ordered that any responses to the DePaoli Motion and the Nalven Motion are due on or before November 29, 2010;

WHEREAS, the parties therefore agree that Stipulating Defendants need not answer or otherwise respond to the Complaint because the Complaint will likely be superseded by a consolidated amended complaint in MDL No. 2213;

WHEREAS, this is the parties' first application to extend the time for Stipulating Defendants to respond to the Complaint;

THEREFORE, IT IS STIPULATED AND AGREED:

1. Stipulating Defendants need not answer, move to dismiss or otherwise respond to the Complaint until after the JPML rules on whether to transfer this Action as part of MDL No. 2213.

2. If the JPML transfers this and all related Actions to a single district for coordinated or consolidated pretrial proceedings, the Stipulating Defendants shall answer, move to dismiss or otherwise respond to within 60 days after: (a) the plaintiffs in the consolidated

actions serve a consolidated amended complaint on behalf of the putative class of plaintiffs included in this action, or (b) the plaintiffs in the consolidated actions, filed on behalf of the putative class of plaintiffs included in this action, serve notice that they will not file a consolidated amended complaint.

3. If the JPML does not transfer this Action as part of MDL No. 2213, Stipulating Defendants shall have 60 days from service of the JPML's decision to answer, move to dismiss or otherwise respond to the Complaint.

4. The entry into this Stipulation shall not constitute a waiver of any defense, including any defenses that may be available under Rule 12 of the Federal Rules of Civil Procedure.

5. Notwithstanding Paragraph 4, JPMorgan, HSBC Securities (USA) Inc., and HSBC Bank USA, National Association agree that they have been served or have agreed to waive service with respect to this Action.

6. If any answer or other responsive pleading is filed by any Stipulating Defendant in any of the Actions before the date provided by this Stipulation, or if any documents are produced in such Actions, the Stipulating Defendants will file their answer or responsive pleading, and shall produce such documents, in this Action. Any production of documents will be subject to a protective order to be negotiated by the parties.

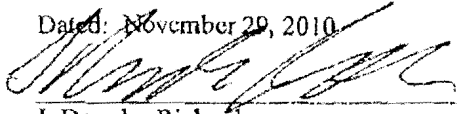
7. All parties agree that they will preserve documents and other materials in accordance with their obligations under the Federal Rules of Civil Procedure. By preserving a document, a party does not concede that the document is discoverable or relevant.

8. By entering into this Stipulation, no party thereto shall be precluded from arguing that the JPML petitions that have been filed are legally insufficient or otherwise should be dismissed.

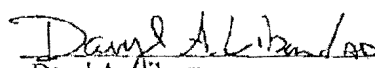
9. Neither party shall rely on this Stipulation to argue that this Action is stayed.

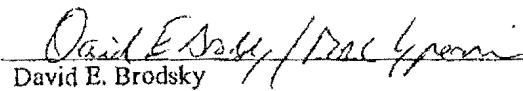
AGREED:

Dated: November 29, 2010.


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HSBC Bank USA, National Association*

IT IS SO ORDERED:

11/30/10


Robert P. Patterson
United States District Judge